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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/516,452

12/03/2004

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EXAMINER

ROGERS, JUNE MARIE

ART UNIT

PAPER NUMBER

4173

MAIL DATE

DELIVERY MODE

11/20/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/516,452	Applicant(s) ISHII, TETSUYA	
	Examiner Juné M. Rogers	Art Unit 4173	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 November 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) 9-13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☒ Claim(s) 4-8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1 sheet</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of the invention of Group I, encompassing claims 1-8, in the reply filed on November 1, 2007 is acknowledged.

Priority

Acknowledgement is made to Applicant's claim of priority to Japanese Patent Application No. 2002-178612 filed June 19, 2002. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Objections

Claims 4-8 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should refer to other claims in the alternative only, and/or, cannot depend from any other multiple dependent claim. See MPEP§ 608.01(n). Accordingly, the claims have not been further treated on the merits.

Status of the Claims

Claims 9-13 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on November 1, 2007. Claims 4-8 have not been treated on the merits (see above claim objection).

Claims 1-3 are under consideration in this Application.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Syudo (EP 1151751). Syudo discloses gel compositions formed by cross linking a polymer with two substances selected from magnesium aluminometasilicate ($\text{Al}_2\text{O}_3 \bullet \text{MgO} \bullet 2\text{SiO}_2 \bullet x\text{H}_2\text{O}$); dried aluminum hydroxide gel ($\text{Al}_2\text{O}_3 \bullet n\text{H}_2\text{O}$); and aluminum chloride (abstract and page 3, lines 33-44) said composition comprising polyacrylic acid, sodium polyacrylate, water, and L-ascorbic acid with pHs of 8.5, 6.0, 7.5, 6.5, and 7.0 when diluted with purified water (page 5, table 1). Therefore meeting all of the limitations of Applicant's claims 1-3.

It should be noted that the Examiner is interpreting the compound magnesium aluminometasilicate having the formula ($\text{Al}_2\text{O}_3 \bullet \text{MgO} \bullet 2\text{SiO}_2 \bullet x\text{H}_2\text{O}$) as being a type of magnesium hydroxide-aluminum hydroxide co-precipitate because the prior art teaches aluminum hydroxide gel has the formula of $\text{Al}_2\text{O}_3 \bullet n\text{H}_2\text{O}$, which is present in the magnesium aluminometasilicate compound. The presence of water in the magnesium aluminometasilicate formula would seemingly suggest the aluminum and magnesium are in hydroxide form or alternatively would degrade to form aluminum hydroxide and magnesium hydroxide therefore meeting the limitations of Applicant claim 3.

Applicant is invited to provide evidence to the contrary.

Conclusion

No claims allowed.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Juné M. Rogers whose telephone number is 571-270-3497. The examiner can normally be reached on M-T 8:00-5:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ardin H. Marschel can be reached on 571-272-0718. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Juné M. Rogers

/Ardin Marschel/

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Art Unit: 1614

Supervisory Patent Examiner, Art Unit 1614